

PROCEEDINGS

of a

MILITARY COURT FOR THE
TRIAL OF WAR CRIMINALS

held at

LUNEBURG, GERMANY,

on

SATURDAY, 27 OCTOBER, 1945,

upon the trial of

JOSSEF KRAEPP

and

44 Others.

T H I R T Y - S I X T H D A Y.

Transcript of the Official
Shorthand Notes.

(At 0930 hours the Court reassembles pursuant to adjournment, the same President, Members and Judge Advocate being present.)

(The accused are again brought before the Court.)

COL. BACKHOUSE: I have been able to obtain at last a properly surveyed plan of Belsen. We were not aware of its existence when this trial started but I have had copies made, which have been supplied to the defending officers, and I would like to put it in as an exhibit. Brigadier Glyn Hughes supplied it and I have a short affidavit made by Brigadier Glyn Hughes attached to each copy merely saying this is a plan delivered to him by the surveyor and, to the best of his knowledge and belief, it is a correct representation of the camp area which was burned down.

THE PRESIDENT: It really covers the layout as he saw it?

COL. BACKHOUSE: Yes. Perhaps I may hand it in now.

CAPT. PHILLIPS: Before the plan is actually handed in, on behalf of the defence I have an application to make on this subject. The Court will, no doubt, remember that when Brigadier Glyn Hughes gave evidence he handed in to the Court a report on the conditions which he had found at Belsen. That subsequently became Exhibit 1, I think. In the index to that report, which is printed on page 52 of the bundle of documents, you will see that there is an index of appendices. Appendix B says: "Will be forwarded later. Plan of Camp 1."

On the 10th September the defending officers attended a conference at which was present a member of the staff of the Judge Advocate General's Department. They asked for certain assistance and included in that request was a request for a copy of this plan or of any plan. I do not know whether the plan now produced is that plan or another plan, but it does not really matter.

The request was renewed on the 17th September on the first day of the trial. On the 21st September the Court visited Belsen and you yourself, Sir, will no doubt remember that at that time Brigadier Glyn Hughes was re-called and he then had with him a plan. I do not know whether the Court has seen the plan since then but I have seen it and there are three points I have to make about it.

The Court has not seen it -- the learned prosecutor will correct me if I am wrong -- but on that plan there is no compass point so we do not know the direction of North, South, East or West. There is no scale, so we do not know how far it is from any one point to another point. There is no legend or key so that a blob on the plan is quite meaningless. We do not know whether it is a cookhouse, storeroom or a concrete pond, or whatever it is.

My application is this, that if this plan is going to be produced at this stage of the case in the middle of the case for the defence Brigadier Glyn Hughes should be re-called so that he can produce the plan himself. He can then be examined and cross-examined upon it. He is probably the only person who can tell us just what the particular things on the plan do represent. In my submission, if that is not done, it is going to be merely a matter of speculation both for the prosecution and defence, and also for the Court, as to what the different marks and so on on this plan do mean.

As I say, I have had a look at it and I find it very difficult to understand it. I am particularly interested in cookhouses in this case. I have my own idea as to which are the cookhouses and I do feel we should have an authority on that subject. My application, therefore, is that if this plan is going to be produced Brigadier Glyn Hughes should be re-called to produce it.

COL. BACKHOUSE: It is only a matter of convenience. So far as the earlier part of my friend's statement is concerned you will realise that from the very beginning I have had to suffer from brickbats from the defence. Up to now I have done everything I can and I really think the time has come when I shall have to stop doing so if they are not grateful. Throughout this case there have been these, not open, but veiled allegations that things have been concealed from them. I know nothing of the conference of which Capt. Phillips speaks, but quite definitely no member of the war crimes investigations team from the Judge Advocate General's Department took part in it.

The second thing is that no application was ever made to the prosecution whatsoever, until we reached here, for that plan. Who Capt. Phillips made representations to I do not know. The third thing is that, as I explained in the opening days of this trial when reference was made to this plan, I did not know of the existence of the plan, but I was supplied with a copy of the memorandum which had to go up with the plan. The only exhibit I had was the actual report which was a report not made, of course, for the purpose of this trial or made even to 21 Army Group; it was a report made by the D.D.M.S. of 2nd Army to 2nd Army and, no doubt, the plan accompanied the report to 2nd Army. Whether it did or not, I do not know. All I know is that I could not get it and that my information was that there was no plan in existence at all. I was given a small sketch plan, not the one attached to that report, which was quite obviously inaccurate and misleading and that is why it was not put in. I explained that on the opening day of the trial.

The first time I knew of the existence of the plan was when Brigadier Glyn Hughes produced that plan to me at Belsen. As soon as I heard of it I asked Brigadier Glyn Hughes to let me have the plan in order that I might have it reproduced for everybody because the defence had asked for a plan. Now it seems they do not want it. They do not know what they do want. It seems to me they wanted the plan at one moment and when I tried to get it and got it they do not want it and this is the plan which I have been able to get. I think it would assist the Court and them.

I go further and say one has only to look at this plan to see it will be of assistance. I say that to anybody who looks at it intelligently with a view to trying to get some information from it, and who has listened to the evidence as it has gone along, it is quite simple to see from it where the cookhouses are, where the bathhouse is, and to see which block is numbered.

In my submission this plan is a document of value to the Court and should go in. It can be put in under the Regulations as a plainly authentic document, for what it is worth. I have no objection to my friend making any comments he likes. If he insists that Brigadier Glyn Hughes comes back there is no reason why he cannot be recalled except that, in my humble opinion, it is quite unnecessary; it is wasting the time of an extremely busy and valuable officer quite unnecessarily because anyone with normal intelligence looking at this plan with a view to getting information from it can understand it.

I ask formally now to put it in as an exhibit.

MAJOR CRANFIELD: I was concerned originally with the application by the defence for assistance, and I do not want there to be any mistake about it. As far as I am concerned it is my view that this case has been prepared in what I consider, in my own personal view, a most extraordinary way and I doubt whether any comparable trial will ever be prepared in this way again. That is my own view.

This plan was asked for on the first day of the trial and the learned prosecutor replied that he had no plan. I do not doubt that at that time he had no plan, but at the view which took place in the first week of the trial it was perfectly obvious to everybody that Brigadier Glyn Hughes had a plan. Whether it was the plan exhibited to his report did not appear, but that was the first week of the trial.

The prosecution's case went on for a further two weeks and, in my submission, it is incredible that had the prosecutor wished to obtain a copy of the plan in the possession of Brigadier Glyn Hughes he could not have obtained it and put it in while his case was being put before the Court. I forget whether this is the sixth week or seventh week of the trial, but it is now the middle of the defence. I know that my friend, Capt. Phillips (whose case is intimately concerned with those cookhouses) had himself prepared a plan, or a diagram, which he was proposing to put in during his case. His case will probably be opened to the Court. —————

COL. BACKHOUSE: I do not know what my friend is going to say, but if he is putting in a further reply by Capt. Phillips there is no further reply. This is getting quite out of hand. Capt. Phillips said he spoke on behalf of the defending officers and who Major Cranfield is speaking on behalf of I do not know. I do resent this very much and I ask for the protection of the Court.

THE PRESIDENT: Carry on, Major Cranfield.

MAJOR CRANFIELD: Last night we were served with this plan and in my view if the plan is to go in at this stage it should only go in by consent, and, in my view, any views that a defending officer puts forward about it deserves the very careful consideration of the Court and the cavalier treatment which has been afforded here I think is quite improper.

THE PRESIDENT: Before I ask the learned judge advocate about any legal point, it seems to me that here is a plan which is being produced to assist the Court. There is, presumably, no existing German plan. Whether this plan is a good plan or not, the whole of the Court have been out to No. 1 Camp at Belsen and they saw the layout. I myself cannot see the objection to having a plan put in which will show really the general layout and where the huts etc. had been. I cannot see the objection there. If there is some legal objection of course I will ask the learned judge advocate's advice and then the Court will consider it, but it seems to me that anything put in merely to give the Court a rough idea of the layout will be of assistance and I cannot see how it prejudices the defence in any way.

THE JUDGE ADVOCATE: I am not quite clear who is putting the plan in. Of course the prosecution cannot put it in, as it were, in chief when the case for the defence is progressing because he has closed his case, but if the Court want a document put in they can have it put in through the Court. That is the more convenient way of doing it than asking the prosecution or defence to put it in.

As far as I see it, the objection of the defence is that it is not a good plan. Well, that is a matter they can deal with, no doubt, by cross-examining somebody who produces the plan. The difficulty seems to me to be this, that when the plan is produced the defence ought to have somebody whom they can cross-examine upon it. I do not quite know how that is to be done.

If this plan has no official markings on it to indicate what any particular blob on the plan represents, that means we have got to get down together and try and agree, quite unknown to the defence unless we do it in open Court, what we consider is a particular cookhouse or hut. It does seem to me that if this plan is put in and has not got anything on it, rather than agree the position of any particular hut or cookhouse, we have got to somehow get reliable evidence to establish where and in what particular part of the plan we find any particular hut or cookhouse we are interested in. I do not quite know what Col. Backhouse's idea was or who was going to go into the witness box and produce the plan. Perhaps he would tell me and there may be some way out.

COL. BACKHOUSE: The position was this. My friend, Capt. Roberts, wanted to put in an affidavit by Brigadier Glyn Hughes the other day and it was agreed he should put the affidavit in to save dragging Brigadier Glyn Hughes back here because Brigadier Glyh Hughes was about to leave for the War Office and a tour of Rhine Army. I heard that Brigadier Glyn Hughes reached Hamburg in the course of his tour and I got him to give the plan to the map people to have it reproduced. I asked him at the same time to certify the plan as being the one which was handed to him but, instead of that, he swore a short affidavit before an officer saying this is the plan which was handed to him. That is the position.

The defence have asked me for the plan, the Court ~~had~~ earlier on indicated that they would like the plan, the plan has in fact been put to the Court by Brigadier Glyn Hughes because it was shown to them. It has already been put in evidence before although never marked as an exhibit. I know it was shown to the Court at Belsen and that was the first time I knew it existed.

THE JUDGE ADVOCATE: I do not think it is right to say that any plan was put in. I never saw any plan or studied it, or anything of that kind. I think Brigadier Glyn Hughes had a plan which he took round with him and I think he was refreshing his memory from that plan and those who happened to be near him heard what he said, but everybody did not hear because we were a rather large straggling column. I personally never saw that plan in the sense that I could follow anything on it; it was never in my hand and much of what he said I never even heard. The defending officers and myself never had the document before us in the sense that we could use it as evidence either for or against the accused.

What really troubles me is this, you have a plan produced which may have on it markings which clearly denote a building. Well, then you, Col. Backhouse, and the defence could agree what it represents and we could get on, but supposing you said this particular object is Cookhouse 4 and the defence want to say: "No, we think it is 3", then is not it right there should be somebody in the Court who can deal with those questions. That is what troubles me if the plan is not marked clearly.

COL. BACKHOUSE: This is a plan of what was found when we got there. Regarding the cookhouses, for instance, Brigadier Glyn Hughes has said: "I do not know which was 1, 2, 3 or 4, because we did not call them that; we called them A, B, C and D", so I have nobody else to prove it, and neither have the defence. I am merely trying to put this in for the assistance of the Court. If it is not going to assist them well, leave it out. The defence asked for it and I have got hold of it as soon as I could from Brigadier Glyn Hughes.

THE JUDGE ADVOCATE: I should have thought it was perfectly possible for Col. Backhouse to put that plan to whoever we considered to be the most informed accused, if we wanted it; for instance Kramer, or somebody like that. He could be asked to look at that plan and say what the buildings were, or something of that kind.

COL. BACKHOUSE: I think that is a thing which the Court may very well be able to do, but until it has been put in the Court cannot do it. I cannot re-call Kramer. The simple thing is to put it in, for what it is worth, and then start arguing where things are.

(The Court confer.)

THE JUDGE ADVOCATE: The result of the Court's short deliberation is that if the defending officers and the prosecution can agree the plan, because the Court thinks it would help them, they the plan can be put in, but if you cannot agree among yourselves as to what the plan represents in reasonable detail then the plan will not be put in. Therefore I think it follows for the moment the plan cannot be put in. Perhaps something may be done about it over the week-end and the position re-considered on Monday morning.

CAPT. NEAVE: Before I call my next accused I would like to ask an indulgence for a few moments. Yesterday my attention was drawn to an article in an English daily newspaper regarding part of the proceedings in this Court on Wednesday. My name is specifically mentioned in that report and it is in connection with that I would like to say a few words. I will not mince matters. The report appears in Thursday's edition of the Daily Express and the report sets out what I may term the "high lights" of the defence.

The report states that after the challenge by you, Sir, as to what the witness was holding in her hand, the witness, Naumann held up a lace handkerchief. It then goes on to say that during the lunch recess the witness Naumann was searched and two typed documents were found in her clothes, one a complete list of the prisoners, the other a statement in German which she later told the Court she received in prison last week-end.

The report then mentions me by name as saying that there was nothing ulterior about this, it was a statement I took from her during interrogation. The report continues: "But the Judge Advocate General warned the defence counsel not to give such documents to witnesses".

As far as I am concerned the report ends there. I resent the whole thing most strongly. The witness Naumann was called, as I have shown, by another defending officer. He was not to know that she had any papers in her pocket, neither was I. What if she did? She was not breaking any rule that I know of. She was not referring to them. Of these two documents one was referred to as a complete list of the prisoners but, as you know, the list was in fact a list of witnesses which had against the names of these witnesses the names of the various accused. Where the woman obtained that document she has told you. It was not from me. The other document was, as I have shown, a most innocuous statement of facts, which was the statement made to me by that witness at an earlier stage in this case.

The reason I have raised these points is that under King's Regulations without my commanding officer's permission I am not allowed to write to the daily paper concerned and, in any event, at the moment I am not in direct touch with my commanding officer. I am not a member of the Judge Advocate General's department, nor am I a member of any war crimes investigation team. I hope to be demobilised within the next two or three months. I have spent close on two months on this illconceived and extremely distasteful case, not as a free agent but as an officer performing a duty, and I do not intend to have my future career prejudiced by a newspaper reporter.

THE JUDGE ADVOCATE: All I think we can reply to this, which is really it seems to me a matter between the officer and the newspaper, is that if he is aggrieved by that report and thinks it is not a fair and honest comment or report of legal proceedings then presumably there is some remedy open to him if he feels he has been harshly dealt with by that report as an officer, but so far as this Court is concerned we do not and cannot, nor do we wish to, control the press. We certainly have seen some extraordinary paragraphs relating to this case at different times, but we must assume the press are putting in what they believe to be the truth and if they make a mistake well then, Sir, there are the usual laws which apply which can be invoked, if they go beyond something laid down by law.

In my view there is nothing we can do about this matter and we should now proceed to deal with the matters which are really relevant to this case.

THE PRESIDENT: I think, Capt. Neave, you must realise the press invariably try to make fair comment. As the learned Judge Advocate has said, there may be mistakes made, there may be something about which you personally feel aggrieved, but I am quite sure there is no intention deliberately to do it.

CAPT. NEAVE: I will now call my next accused No. 45, Ida Forster.

THE ACCUSED, IDA FORSTER, takes her stand at the place from which the other witnesses have given their evidence and, having been duly sworn, is examined by CAPT. NEAVE as follows:-

Q What is your full name? A. Ida Foester.

Q Where and when were you born? A. 15th May, 1902, in Blunendorf in Silesia.

Q Are you married or single? A. Married.

Q Have you any children? A. No.

Q Is your husband still alive? A. I believe he is alive; he was in the Army.

Q How were you employed during the war? A. In a textile factory in Rohrsdorf in Silesia.

Q Were you conscripted into the S.S.? A. Conscripted to the S.S. on the 16th August, 1944.

Q What happened to you then? A. I was sent to Grossrosen, medically examined and drew my uniform.

Q What happened to you after that? A. On the next day I proceeded to the labour camp in Langbielan.

Q What did you do there? A. Trained for treatment of prisoners.

- Q. How long did you stay there? A. Three weeks.
- Q. What happened to you after that? A. Then I returned to Rohrsdorf again, where I came from, and stayed there.
- Q. What was your employment in Rohrsdorf after you went back to it? A. I returned to the textile factory where I came from and did the duties of an aufscherin.
- Q. Who was working in that factory? A. There were prisoners ~~there~~, and then the factory had to provide their own aufscherin and that is how I came to be in that factory as an aufscherin.
- Q. How long did you stay in Rohrsdorf? A. About six months time, until the 16th February 1945.
- Q. Where did you go on the 16th February 1945? A. Then on the 16th February we were evacuated and had to go with the prisoners to Kratzau in the Sudetenland.
- Q. Did you stay long in Kratzau? A. Four days.
- Q. Where did you go from there? A. Belsen.
- Q. About what date did you arrive in Belsen? A. 28th February 1945.
- Q. How were you employed when you got to Belsen? A. For a fortnight I had a small working squad and we took all the offals of the kitchens away.
- Q. What did you do then? A. Then I went to kitchen No.3 as aufscherin; in the second part of kitchen No.3.
- Q. What were your duties there? A. General supervision and seeing to it that everything was clean and the food was cooked.
- Q. Did you have anything to do directly with the feeding of the internees? A. No, we had a kitchen chief for that.
- Q. Who was that kitchen chief? A. Sturmann Jenner.
- Q. Did you have internees working in the kitchen? A. Yes, female internees.
- Q. About how many did you have working in the kitchen? A. 35.
- Q. I will come now to the specific allegation. There is only one, the witness Ilona Stein, transcript No.9, page 16. Do you remember the witness Ilona Stein who came and gave evidence in court? A. Yes, I remember.
- Q. Do you remember that she said in her evidence that she saw you one day beating one of the prisoners who was trying to steal food with a rubber truncheon? A. No, it is not true; I have never beaten anybody, and apart from that nobody tried to steal in my kitchen.
- Q. Did you know this woman Ilona Stein at Belsen? A. No, she did not work in my kitchen.
- Q. Did you ever hit anyone with a rubber truncheon? A. I never hit anybody.
- Q. Did many of the internees come round the kitchen trying to get food? A. In front of the kitchen there were always people standing around, but I had nothing to do with that because I had my job inside the kitchen. Actually it was Jenner's duty to see that order was maintained, and the part where the vegetables were being peeled, potatoes and turnips and so on, that was further away from my kitchen, so I had nothing to do there at all.
- Q. Were you quite healthy at Belsen? A. Yes.

C. Have you been healthy since you left Belsen? A. Yes.

MAJOR WINWOOD: No questions.

MAJOR MUNRO: No questions.

MAJOR CRANFIELD: No questions.

CAPT. ROBERTS: No questions.

MAJOR BROWN: No questions.

CAPT. FIELDEN: No questions.

CAPT. CORBALLY: No questions.

CAPT. PHILLIPS: No questions.

Cross-examined by LT. BOYD.

LT. BOYD: My question is about No. 41. (Cerrtrude Sauer) (To the witness) Did you know an aufseherin called Orlt in Belsen? A. Yes, she worked in kitchen No. 3.

C. When did she work in kitchen No. 3? A. I do not know exactly, but she had been working in that kitchen before I arrived there. She was transferred to another job; she went away from that kitchen.

C. Did she look anything like the accused Sauer? A. Yes.

C. Let us take it in a bit more detail. Figure first. Did she look like her in figure? A. Yes, and the height as well.

C. Did her face look anything the same or not? A. Yes, she was alike, like Frau Sauer, and her hair as well.

CAPT. MUNRO: No questions.

LT. JEDRZEJOWICZ: No questions.

Cross-examined by COL. BACKHOUSE.

C. You were in this kommando that went round the kitchens collecting the offal, were you? A. Yes.

C. I would like you to help me about where some of these kitchens were. Supposing you come down the road towards the concentration camp from the wehrmacht barracks; you come down from the direction of the wehrmacht barracks towards the concentration camp? A. Yes.

C. Then you come in through the gate into the S.S., that is the administrative part of the concentration camp, do not you? A. Yes.

C. And if you walk down towards the part where the prisoners lived you come, first of all, to one or two buildings on your right and you will eventually come to the bathhouse on your right, will not you? A. Yes.

C. There is a little road that leads off there up past the bathhouse, and just opposite the bathhouse there is a cookhouse, is not there. Was not that cookhouse No. 4? A. Yes, No. 4.

C. And if you went up the lane which leads along the side of cookhouse No. 4 that would take you into the women's compound, would not it? A. Yes.

C. If you went right along that little lane past blocks 200, 201, 199, 198, 197 and 196 you would come to cookhouse No. 3, would not you? PURLY https://www.legal-tools.org/doc/a4506a/

- C. Would one half of it be on your right and the other half on your left?
A. Correct.
- C. The other blocks in that particular little part would be 203, 204 and 205, would not they? A. I do not know that exactly, but I believe it is so.
- C. Now do you mind if we go back outside the camp, and go back to down beside the bathhouse. Instead of going round that little lane past cookhouse No.4 let us turn left and go in through the main gate into the men's part of the camp. Just before we go into the camp there is the S.S. kitchen and the S.S. mess, is not there - before we go into the men's compound? A. Yes.
- C. Then if we go in through the gate on our left, first of all, we find the food store? A. After a certain distance.
- C. Yes, after a little distance. A. Yes.
- C. Then on our left we shall find blocks 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, shall not we? Never mind the block numbers if you do not know them. A. On the left side?
- C. Yes, on the left side. A. Yes.
- C. And on the right side we pass one or two buildings and then we come to a little concrete pond, and next to that we come to cookhouse No.1, do not we? A. On the right side, yes.
- C. Then if we go on down that road we pass a lot more blocks on our left, another little lane on our right, and on our right again we find a concrete pond, and then we find cookhouse No.2, do not we? A. On the right, kitchen No.2.
- C. Now tell me, first of all, who was in cookhouse No.4 when you were carrying these vegetables round. Who was the S.S. man in charge of kitchen No.4 when you used to collect the offal - not carrying vegetables? A. I did not go inside so I do not know.
- C. Who were the S.S. women in that cookhouse? A. I did not go round to all kitchens. I took that on from kitchen No.1 and then what I saw on the road lying about, but particularly kitchen No.1.
- C. Do not worry any more about the other kitchens. Let us just talk about the one you worked in. You have told us that Jenner was in charge of it? A. Yes.
- C. Was Francich in charge of the other half? A. Yes.
- C. What other women worked in that kitchen? First of all, let us take the half you worked in. Who were the other women who worked in that half? A. Frieda Walter and myself.
- C. And who worked in the other half? A. Irene Haschke and another woman with a funny name; She has such a funny name for the moment I cannot remember it.
- C. Is she here, the other woman? A. No.
- C. How did Jenner treat the prisoners in that cookhouse? A. He did not beat anybody.
- C. How did Haschke and the other women treat the prisoners? A. They were in the other kitchen; I do not know how they treated them.
- C. I suppose you never saw anybody beaten at all? A. No, I did not see it.
- C. The whole time you were at Belsen did you ever see anybody beaten? A. I was always in the kitchen and he might have gone out and might have seen some disorder and beaten somebody, but I would not know because I was always in the kitchen.

- C. I was not asking you just about Jenner. Did you ever see anybody beaten all the time you were at Belsen? A. No, I have not seen it.
- C. Did you ever see anybody shot all the time you were there? A. No.
- C. The prisoners really had rather a good time, did they? A. Yes, those in the kitchen they were quite all right, had quite a good time, and those 24 who were with me they had a good time as well.
- C. Let me suggest to you that you are not telling the truth about this at all.
A. Oh yes, I speak the truth.
- C. I suggest to you that prisoners in Belsen in the cookhouses and round the cookhouses were regularly beaten. A. I have been working in the kitchen. I do not know. I have said before that Jenner might have gone out and seen to it that order should be, and he might have beaten, but I do not know anything about it.
- C. I suggest to you as well that you joined in with a piece of rubber cable that you used to keep in the cookhouse, A. No, I never had one.
- C. There was a big pile of vegetables outside each of the kitchen's was not there; the carts used to come and tip them there? A. I said before that in my particular kitchen it was different, because about 50 metres away was the part where vegetables were cleared and peeled, and those vegetable heaps you are talking about were far away from my kitchen.
- C. That was by Francioh's part of the kitchen, was it? A. Yes, the part where the vegetables were peeled and cleaned was on the left side if you went down the road.
- C. And did a lot of people try and get vegetable peelings and so on from there, steal vegetables from there? A. I could not see such a thing from my part of the kitchen.
- C. Did you never go out all day? A. No, I stayed in the kitchen all the time.
- C. Were there no windows? A. The windows went into the other direction.
- C. What did you do in the kitchen all day? A. I stayed the whole time near the boilers and saw to it that everything was cooked nicely, and I saw to it the containers should be filled and after having been used that they should be cleaned, and the boilers should be cleaned.
- C. You were there, of course, to see that the prisoners did it, were not you?
A. Yes, I supervised to see that it should be done.
- C. You had very much the same job as you had in the factory before?
A. At the factory I stood only in front of the door or gate to see that nobody escaped.
- C. Did all your prisoners in the kitchen always do exactly as you told them?
A. They knew their job themselves; they knew what to do.
- C. And they always did just what you wanted them to? A. Yes, we had nice and friendly relations.
- C. They knew exactly what to do without being told? A. Yes, everybody had his particular detail.
- C. And they all did it; you never had any trouble with them at all? A. No, never.
- C. Then why on earth did you never go out for a breath of air if everything was going so smoothly? A. I had my job and I stayed there. That was my job, to see to it.

- Q. Do you remember Ehlert speaking to all the aufseherin on parade, all the ones from the kitchens, and telling them they had got to be more strict and stop this stealing of po tatoes and vegetables? A. I was not present at that parade.
- Q. Tell me, do you remember the last few days before the British came? A. Yes.
- Q. Do you remember when all the S.S. men left the kitchens and went on a parade? A telephone message came for all S.S. men to parade, Kramer wanted to talk to them. Do you remember that? A. That was not during my shift. I must have just changed shifts, because I do not know anything about it.
- Q. Did you work double shifts then in your kitchen? A. Yes.
- Q. Were there two S.S. men? A. Jenner worked under the commander Francioh, so he came now and again and saw to it that everything was all right.
- Q. So Francioh was in charge of both kitchens and, of course, the peeling department as well? A. Yes, he was senior.
- Q. Did Francioh work both shifts, or one shift? A. I do not know, he came sometimes when I was present, and that is when I saw him.
- Q. Did Jenner work both shifts? A. Jenner was always there.
- Q. Jenner was there on both shifts, was he, both the morning shift and the afternoon shift? A. Yes.
- Q. Were there any guards put over these piles of vegetables? A. Yes.
- Q. You saw the guards, did you? A. Yes, I had to pass the guards when I went into my kitchen.
- Q. But you never even saw the guards shoot anyone? A. No, I did not even hear shooting and I would have heard any shooting in the kitchen.

CAPT. NEAVE: No re-examination.

THE JUDGE ADVOCATE: Why do you say Francioh was in charge of kitchen No. 3 during the latter part of April 1945? A. As long as he was there he came again and again to see that everything was all right.

- Q. Did not you tell us that Francioh was in charge of kitchen No. 3 and that Jenner worked under him? A. Yes.
- Q. Do you say that Francioh was running the kitchen from the beginning of April onwards? A. I do not remember the exact date because he was away for eight days. When he returned I could not say.
- Q. What was he away for eight days for? A. He told us that he was arrested and he was in prison for that period.
- Q. What period? A. Eight days in prison.
- Q. But what date was this imprisonment? A. In March.
- Q. You think he was away in March and back in April; is that right? A. Yes, approximately.
- Q. Who looked after the kitchen when Francioh was away? A. Jenner.

A MEMBER OF THE COURT: You say you never left the kitchen. I suppose you had your food and you slept in the S.S. quarters; is that right? A. Yes, one hours lunch time.

THE PRESIDENT: Have you any questions.

CAPT. NEAVE: No, Sir.

(The accused Ida Forster leaves the place from which she has given her evidence)

CAPT. NEAVE: Before I call my next accused I was going to call a witness in her defence merely to speak to the date of her arrival in Delsen. That witness was Hildegard Kanbach. She has been in prison in Britain. <http://www.thelegalpoets.org/doc/a4506a/> six months. I do not now intend calling her.

THE PRESIDENT: Well. Hildegard is a different witness to the one called here?

CAPT. NEAVE: Yes. There has been some mix up about the names, and I think that is how the mistake has arisen. One is called Ilse Steinbusch and the other is Hildegard Kanbach. Hildegard Kanbach is the one I had intended calling and I am not now calling her.

The Accused KLARA OPITZ takes her stand at the place from which the other witnesses have given their evidence and, having been duly sworn, is examined by CAPT. NEAVE as follows:

CAPT. NEAVE: Before I start, there is only one single allegation against this woman, and is contained in the deposition of Peter Leonard Makar, pages 104 to 106, Exhibit 61. (To the witness) What is your full name? A. Klara Opitz,

- Q. Where and when were you born? A. 16th April 1909 in Schmidberg in Silesia.
- Q. Are you married or single? A. Single.
- Q. How were you employed during the war? A. I worked in the factory A.E.G. in Zillerthan.
- Q. When did you leave that work? A. 10th October 1944, when I was conscripted to the S.S.
- Q. What happened to you when you were conscripted into the S.S.? A. I went to Langenbilau for a training period of three and a half weeks.
- Q. What were you taught during these three and a half weeks? A. My duties and instructions as an aufseherin.
- Q. When the course was finished where did you go? A. I went back to my former site of work, place of employment, the A.E.G. factory in Zillerthan as a proper aufseherin.
- Q. What did your work consist of then? A. Aufseherin supervising the prisoners.
- Q. How long did you stay there? A. February 1945, I do not remember the exact date.
- Q. What happened in February 1945? A. The prisoners and we went to Morgenstern; they had to work there.
- Q. What did you do at Morgenstern? A. Again aufseherin supervising prisoners.
- Q. How long did you stay there? A. $3\frac{1}{2}$ weeks; I do not remember the date.
- Q. Did you leave there and go somewhere else? A. Yes, I do not know the date, but we went to Grosswerhter near Nordhausen.
- Q. Were you looking after internees when you went to Grosswerhter? A. Yes.
- Q. Where did you go from Grosswerhter? A. In April in March with the prisoners to Hersberg.
- Q. Did you stay long in Herzberg? A. We touched only Herzberg and left the next day.
- Q. Where did you go to? A. We did not know the destination, but we found out Neuengamme.
- Q. How long did it take you to get to Neuengamme? A. Two days.
- Q. How long did you stay in Neuengamme? A. Late at night on the 11th April we arrived at Neuengamme and left Neuengamme on the 13th April.
- Q. Where did you go then? A. Belsen.
- Q. When did you arrive in Belsen? A. On the 13th April 1945.
- Q. How do you remember that date so well? A. Because the other aufseherin told me that it is the 13th.

- Q Was that Friday 13th ? A. I do not know.
- Q You have read in German the statement of Dr. Makar, have you not ? A. Yes.
- Q Dr. Makar in paragraph one says: "I have been in Belsen for some months having previously been at Dachau. I know the SS woman known as Bormann and Clara Opitz. I have frequently seen them beating women prisoners. They made a habit of it". Have you ever beaten prisoners ? A. I have never beaten prisoners so I did not make any habit of such things.
- Q Then on page 404 paragraph 3: "I recognise Klara Opitz (No.1 on photo 37) as being an SS woman in charge of female working parties at Belsen. On one occasion I was passing a party when I saw Opitz kicking a girl and beating her on the face and body with her fists. I have often heard from other prisoners that she made a particular habit of beating the girls". Did you ever beat girls at Belsen ? A. No, never.
- Q During the two days you were at Belsen before the British came what duties did you perform ? A. I had a working party under me in the kitchen of Block No.9 in the part where potatoes and vegetables were cleaned and peeled.
- Q In which compound was that kitchen ? A. I do not know the number of the compound. It was near the bread stores.
- Q Is it possible that the witness Dr. Makar could have seen you many times in Belsen ? A. No.
- Q When did you see this woman first ? (Indicating accused No.8, Herta Ehrlert) A. In Neuengamme.
- Q About when was that ? A. On the 13th April 1945.
- Q When did you first see this woman ? (Indicating No.7, Elizabeth Volkenrath) A. I saw her in Belsen and she was Oberaufseherin.
- Q When was that ? A. In April; I do not know whether it was on the 14th.
- Q Was it before the British came ? A. Yes.
- Q How many days before the British came ? A. Perhaps four days before the British troops arrived.
- Q Were you in Belsen four days before the British came ? A. Five days.

(The remaining defending officers have no questions to ask)

Gross-examined by COLONEL BACKHOUSE

- Q You said you were in the camp for five days before the British came ? A. Yes.
- Q Who was the Oberaufseherin at Grosswörter ? A. Petermann.
- Q Did you leave there on either the 4th or 5th April ? A. Yes, 5th April.
- Q And you got a train from Herzberg station, did you ? A. Yes.
- Q Do you remember those two women who came here, one called I think Steinbusch and the other Naumann, the other day ? A. Yes.

- Q Had you seen them at Grosswerter ? A. Yes, they were in Grosswerter as well.
- Q About how many SS women were there at Grosswerter ? A. Eight.
- Q You left there on the 4th or 5th, and the journey took you two days, did not it ? A. Yes.
- Q Did you know that the Oberaufsorin had told both Naumann and Steinbusch that you were going to Bergen-Belsen and that is where the ~~British~~ make their way ? A. No, I do not know that because those two were not with us any more. They were ill.
- Q Did not you go straight to Bergen-Belsen from Grosswerter ? A. First to Herzberg.
- Q Yes, but did not you go straight from Herzberg to Bergen-Belsen ? A. First to Neuengamme.
- Q Never mind about dates, just tell me how many nights were you at Neuengamme ? A. Two nights.
- Q If you left Grosswerter on the 4th or 5th and you took two days on the journey, that gets us to about the 7th, then two nights at Neuengamme brings us to the 9th, so you would arrive at Bergen-Belsen, as you say, about the 9th or 10th which is about five days before the British arrived ? A. Yes.
- Q When you got to Bergen-Belsen to whom did you report ? A. Volkenrath.
- Q What work did she give you to do ? A. Into the peeling part of the kitchen.
- Q Do you know which kitchen it was ? A. I do not know.
- Q Was it the same one that Litwinska worked in ? You remember her, she says you were in the room adjoining the room in which she worked, and that you worked on peeling potatoes; is that right ? A. I do not know Litwinska.
- Q You went through the gate into the men's compound to your kitchen; do you remember doing that ? A. Through the gate then down the road and left turn.
- Q Is that the food store in Block No.9 ? A. The bread stores.
- Q That was in the end of Block No.9 was it ? A. Yes.
- Q Kitchen No.1 was just across the other side of the road on the right hand side of the road, was it not ? A. Yes.
- Q You were working there for the remainder of the time you were at Belsen, were you ? A. I worked only for two days with the prisoners.
- Q What did you do the other three days ? A. We were in the billets.
- Q What were you doing in your billet ? A. (After a pause) All sorts of things - laundry.
- Q What do you mean; your own laundry ? A. Yes.
- Q Who was looking after the prisoners ? A. At that time I had no working party.

- C Was this the last three days you were there or the first three days ?
A. The first three days.
- C The first three days you were left just doing nothing; is that right ?
A. When I arrived I had no working squad at all! I do not know whether it was the 14th or 15th, when I started to work for two days.
- C Do you remember going up to Neuengamme by car early one morning ? A. Yes.
- C Then you came back again the next day, or rather in the middle of the night ? A. Yes, early in the morning.
- C All the aufscherin went up and came back again, did not they ? A. Yes.
- C What were you employed on when you were at the factory ? A. In the weaving department.
- C Then what did you become ? A. An aufscherin.
- C But before you went off on this course to join the SS were not there any haftlings employed there ? A. Yes.
- C Were they employed looking after the looms and you German women were employed looking after them ? A. Yes, they were working there on the looms and weaving, and I was supervising them that they did not leave the room and that they should do their work.
- C Then when the firm wanted some more prisoners you were sent off on a course to become a member of the SS, were you not ? A. All German women there up to the age of 45 were sent to become SS women.
- C What were you taught at this school ? A. How I have to treat prisoners.
- C Is that where you learned to beat them ? A. No; I did not beat prisoners.
- C Did other people beat them there ? A. I do not know. I was taught to report if anything was wrong, to report it to higher authority.
- C Did not you ever see any prisoners beaten either in the factory where you worked or at the school that you went to ? A. No.
- C When you got to Belsen did you ever see any prisoners beaten there ? A. No.
- C I suppose you never saw any beaten at Neuengamme either ? A. No.
- C Or at Grossvorwerk ? A. No.
- C I put it to you that in common with other women who were taught at this school you went to, you beat your prisoners quite regularly ? A. I have never beaten prisoners.
- C And that you beat them in the fact, beat them about the body, and kicked them ? A. That is not true.
- C I suggest that you were quite deliberately taught to do it at this school you went to ? A. No; I only reported anything that was wrong.

Re-examined by CANTAIN NEAVE

- C Can you remember if during the period you were at Belsen there was a parade of all the SS people ? A. I know about a parade of aufscherin; we had such an appel.

- Q Can you remember how long before the British came that that parade of aufschorin was held ? A. Three days before the British arrived.
- Q After the British came were you confined to your billet for some days ? A. Yes, I remember we went on duty in the morning, but there were no duties for us so we went back to our billets.
- Q What did you do in your billets? A. (After a pause) We prepared our food and we tidied up our own belongings.

THE PRESIDENT: You stated that after you arrived in Belsen you were in your own quarters for three days, and that you did laundry there. A. Yes, I did my washing.

- Q Where did you get the water from ? A. Well, there were water taps where water was running in the billets where we slept.
- Q I am not clear about this running water because both Kramer, the commandant, and Klein, the doctor, have said that the water situation was extremely bad. Can you explain how you were getting water ? A. Yes, we turned the tap and the water was running.

THE PRESIDENT: Have you any questions arising out of that ?

CAPT. NEAVE: I have one question. (To the witness) Did you get water for washing after the British came ? A. Yes, we could wash.

(The accused, Klara Opitz, leaves the place from which she has given her evidence)

CAPT. NEAVE: That completes all my accused and all my witnesses.

CAPT. THILLIS: The four accused whom I represent are number 36, Charlotte Klein, number 37, Herta Bothe, number 38, Frieda Walter, and number 39, Irene Haschke. Those four accused are all what might be described as "little people" as far as Belsen is concerned, and they are all what the prosecutor when he opened the case described as miscellaneous administrative personnel.

So far as this case is concerned, the evidence against them is very similar, the only real difference being in the amount of evidence which has been brought against them. With the exception of Irene Haschke all the evidence that has been produced against them is affidavit evidence. That, of course, as far as the defence is concerned raises a difficulty, because one cannot cross-examine an affidavit, and one can only judge the truth or otherwise of it from the internal evidence of the affidavit itself.

The prosecution in this case so far as these affidavits go have advanced what is, in my submission, a somewhat novel principle of interpretation. They suggest that where an affidavit says March if it is more convenient it can be read as April, and they also seem to suggest that where an affidavit says that something happened, we will say in cookhouse No.2, they can say: "Well, that does not matter. If it is more convenient for us we will say that it is in cookhouse No.4". I mention this now because I want to make it quite clear that it is part of my case that these affidavits must be taken at their face value and as meaning what they say. I hope to prove from the evidence of certain of the accused that they were not in the cookhouse in which they are alleged to have committed certain offences.

Before I call the first accused there are two points which I want to make. The first is that it is no part of my case that there was no beating at Belsen. Each of these accused will tell you that at varying times and to varying extents they have hit internees, but they will also tell you that they never hit an internee unless there was a reason for it, and unless, in their opinion at the time, it was necessary for the fulfilment of their job. I want to make it quite clear that that is my case - that they used a certain amount of force occasionally but never more than was reasonable necessary under the circumstances.

The final introductory point I want to make is this. Major Cranfield, when he opened his case, spoke at some length on the subject of what may be called international standards of conduct and behaviour, and I would like to remind the court of that now, because, in my submission, you cannot judge the amount of force which these people used and decide whether or not it is reasonable by applying anything except some such general standard of conduct.

I will now call my first accused, Charlotte Klein.

THE ACCUSED, CHARLOTTE KLEIN takes her place
at the stand from which the other witnesses
have given their evidence and having been
duly sworn is examined by CAPTAIN PHILLIPS
as follows:-

CAPT. PHILLIPS: The evidence against this accused is in the affidavit of

Luba Traszinska, exhibit 88 page 162.

(To the witness) What is your full name ? A. Charlotte Klein.

Q Where were you born ? A. On the 13th December 1921 at Eimenburg,

in Saxonia.

- Q Were you employed in 1939 in a laboratory ? A Yes.
- Q What sort of work were you doing there ? A I was an assistant there in that laboratory.
- Q On what date did you leave that laboratory ? A On the 1st August, 1944, I was conscripted to the Waffen S.S. [REDACTED]
- Q And were you taken to Ravensbruck for four days training ? A Yes.
- Q Where did you go then ? A To a concentration camp called Struthoff in the neighbourhood of Danzig.
- Q And did you stay there until the middle of September ? A Yes.
- Q Where did you go then ? A To a camp in Bronberg in Poland.
- Q And did you stay there until the 24th January ? A 21st January.
- Q Where did you go then ? A Marched to Berlin, Oranienburg.
- Q Why was that ? A We had to evacuate that camp because the front line was getting nearer and nearer and we had to report in Berlin Oranienburg.
- Q When did you report to Oranienburg ? A It might have been the beginning of February, 1945 -- on the 20th February.
- Q And did you go from Oranienburg to Belsen ? A Yes.
- Q When did you arrive there ? A Between the 20th and 26th of February.
- Q Did any other of the accused arrive there with you, and if so, who ? A Bothe.
- Q Was the first job which you had at Belsen in charge of the outside wood kommando ? A First night, duties in the bath-house, then one day outside kommando, so-called wood kommando, and then one week in the bread stores.
- Q Were you ill then for a short period ?
- COLONEL BACKHOUSE: I think the time has come when my friend had better stop leading. I have not objected up to now because it did not matter, but I think the time has come when we must stop.
- THE JUDGE ADVOCATE: Do not lead from now on, Captain Phillips.
- CAPTAIN PHILLIPS: If you please. (To the witness): You have told us you spent a week in the bread store. What happened to you after that ? A Four days ill and afterwards again in the bread stores.
- Q And for how long did you stay in the bread stores on this occasion ? A I stayed there until the 29th March, in this bread stores. Then I fell ill again for six days and I re-joined the bread stores again on the 5th April.
- Q How long did you stay there then ? A Until the 15th April.
- Q Were you there the whole time from the 5th up to the 15th continuously ? A Yes.
- Q And when were you arrested ? A On the 17th April.
- Q You have told us that you were ill on these two occasions. Were you ever ill again ? A Yes, I had typhus during the period of my being arrested.

- Q Now I want to ask you some questions about the bread store. A Yes.
- Q First of all, coming into the camp along the main road into the manner lager, will you tell the Court where the bread store was ? A About 500 metres from the entrance. It is on the left hand side from the road and on the right hand side is kitchen No. 1.
- Q Do you remember when the Court visited Belsen ? A Yes.
- Q Do you remember those two big notice boards at the entrance ? A Yes.
- Q How far from there was the bread store ? A About 500 metres, but I am not quite sure about this distance.
- Q How many prisoners were there in your bred kommando ? A 13 to 15.
- Q Now you have told us that you worked in the bread store. Were you in charge of it or were you an assistant ? A I was a supervisor there, and the aufseherin there, but the bread stores was really belonging at the same time to the food stores, so that I was in charge of the bread stores but I was not really responsible or independent.
- Q Were you in charge of the bread kommando ? A Yes.
- Q What was their job ? A They counted the leaves of bread and then they loaded it on a handcart and pushed or pulled that handcart into the different parts of the camp.
- Q Did you go with the cart, or did you merely send them out by themselves ? A No, I went with them.
- Q Have you ever beaten the members of your bread kommando ? A Not one single one.
- Q How did they work, well or badly ? A Very well.
- Q And apart from not beating, how did you treat them yourself ? A I believe I treated them always well.
- Q Apart from the bread kommando, have you ever hit any other prisoners ? A Yes, when they stole bread.
- Q Did the stealing of bread happen frequently or not ? A Very frequently.
- Q From where was it stolen, or attempted to be stolen ? A Partly from the handcarts and partly when the door to the bread stores was open, when they tried to get it from the stores.
- Q What did you do if you found anybody trying to steal some bread ? A When I reached her I took the bread away from her and I slapped her face.
- Q Did you have a stick in Belsen ? A No.
- Q Did you have a "gummiknuppel" ? A No.
- Q Did the members of your bread kommando ever steal any bread ? A No.
- Q Why was that, do you think ? A They did not need to steal; there was enough bread in the stores and if they wanted there was always enough, they could eat as much as they liked.

CAPTAIN PHILLIPS: I will now put the affidavit on page 162. (To the Interpreter): Will you read to the read paragraph 4 ? (The Interpreter does so). (To the witness): Is it true that bread was taken round in a handcart ? A Yes.

Q Is there any truth in the statement that you beat people so much that they died ? A No.

CAPTAIN PHILLIPS: Now I am going to ask a question which affects accused No. 37 (Herte Bothe). (To the witness): Where did you sleep at Belsen ?
A In the billets of the aufseherin.

Q Did anybody else share your room ? A Yes, Bothe and Rhineholdt, who is not present.

Q Did you ever at any time see Bothe with a pistol ? A No.

CAPTAIN PHILLIPS: That concludes my examination.

MAJOR WINWOOD: I have no questions, and Major Munro has no questions.

MAJOR CRANFIELD: No questions.

Cross-examined by MAJOR BROWN.

Q One or two questions relating to accused No. 21 (Egersdorf). Do you know the accused Egersdorf ? A Yes.

Q It has been stated in evidence that during April he shot a Hungarian girl who had taken a loaf of bread from the bread store. What have you to say about that ? A That is not true, because during the period when I was working in the bread stores Egersdorf never came to the bread stores and I do not remember such an incident at all.

CAPTAIN FIELDEN: No questions.

CAPTAIN CORBALLY: No questions.

Cross-examined by CAPTAIN NEAVE.

Q Do you know No. 33, Ilse Forster ? A Yes.

Q Did she ever ask you to issue extra bread to her ? A Yes.

Q Did you ever issue any extra bread to her ? A Yes.

Q Did she tell you what she wanted it for ? A Yes, she said her prisoners worked very long hours and now bread is very scarce, and whether I could give her some more, and so I gave her.

LIEUT. BOYD: I have no questions, and Captain Munro has no questions.

LIEUT. JEDRZEJOWICZ: No questions.

Cross-examined by COLONEL BACKHOUSE.

Q You were round and about this camp quite a lot, were you, with your bread cart ? A Yes, but I did not go very deep into the camp because the bread was unloaded in kitchen No. 3 in the women's compound, and then I did not go further.

Q And where was it unloaded in the men's compound ? A Yes, I went pretty far through the men's compound, up to the compound where the Dutch prisoners were housed.

Q Where was the bread unloaded in the men's compound ? A There were several compounds in the men's compound, No. 1, No. 2 and in the back this so-called "Starn" compound.

- Q Where did you unload the bread in those compounds ?
A Immediately at the entrance. I do not know the number of the blocks, but very near to the entrance gate.
- Q You told us that when you come into the men's compound your bread store is about 500 metres down the road on the left hand side; is that right ?
A Yes.
- Q Was that in block 9 ?
A Yes, it was block 9.
- Q And on the right hand side of the road, just opposite to it was a cookhouse ?
A Yes.
- Q Just before you got to block 9 and to the cookhouse, if you were coming down from the gate there was something or other on your right, was there not ? What was that building ?
- A That was stores for the vegetables; a sort of cellar.
- Q What was kitchen No. 4 used for, do you know ? Who did that supply with food ?
- A I do not know.
- Q Anyway, no bread was taken to it ? A The last two times I had to go and supply kitchen No. 4 as well, but not before.
- Q You mean the last time or two you took bread up ?
A Yes.
- Q Was that getting near the end just before the British came into camp ?
A Yes.
- Q Did you take any to the S.S. cookhouse ? A Yes.
- Q I want you to tell me exactly where that was. Supposing you are coming from your bread store, you come down the road and then you go through the gate out of the men's lager. Is it just on your left ? A Yes.
- Q Then if you go on past there, what is the next building after that, still on your left ? A That is the canteen for the S.S. troops.
- Q That is really on a sort of little island site between the two roads, is it not ? A Yes.
- Q Then you come round past the canteen and just more or less in front of you, on your left hand side still, is cookhouse No. 4, is it not ? A Yes.
- Q With the bath-house on the right hand side ? A Yes. When I come out of the men's compound the bath-house is also on the left.
- Q That is right. Now I want you to look at this plan and I want you just to look and see if this does not show that. What I want you to look at is the block on it marked No. 9, and then we can start from there. (Plan handed to witness). Do you see where No. 9 is marked ? A Yes.
- Q You will see there is a road marked just above No. 9 ? A Yes.
- Q Now just on the other side there is a letter "B"; a building with the letter "B" on it ? A Yes.
- Q Is that cockhouse No. 1 ? A Yes.

- Q I want you to turn left-handed down that road; you come from Block 9, turn left; that is away from the main gate, and if you go down that road you will see on your right there is a little road off, then you come down to another building marked "A" on your right, do you see that? A. Yes.
- Q Is that cookhouse use No. 2? A. Yes.
- Q Now turn round and come back, come down from cookhouse No. 2 ~~and~~ ^{the} cookhouse No. 1 down the road.

THE JUDGE ADVOCATE: I do not follow what we are doing because we have not the plan. The accused cannot hear what you are saying, and I do not follow what we are doing.

COL. BACKHOUSE: In cross-examination of a witness of course, as you will advise the Court I am sure, I am entitled to put any document to her I like and I am bound by the answers to my questions.

THE JUDGE ADVOCATE: But whatever you put to the witness must be clear to the Court and that is where we are unable to follow. I have difficulty in following this and the accused cannot follow it at all because she is not being told what you are doing.

COL. BACKHOUSE: You do appreciate the way in which this is always done, and the only way it can be done. When there is not a concrete plan you put it to the witness and ask the witness a number of questions to make sure that the witness agrees and then the plan is put in as an exhibit.

THE JUDGE ADVOCATE: But she would have to hear it.

COL. BACKHOUSE: It should be translated as we go along.

THE JUDGE ADVOCATE: I do not know what is happening.

COL. BACKHOUSE: Would not it be very much simpler if we had it in? I am perfectly entitled to put it to the witness. Of course, it may be that my friends will never agree, but I want to get this proved and I think it would have been very much simpler if we had done it in the proper way.

THE JUDGE ADVOCATE: I am not disagreeing with the learned prosecutor about that, but I have to point out that this witness is saying certain things which some of the accused in the dock may totally disagree with and they cannot instruct their defending officers unless they hear what she says and it seems to me it should be translated.

COL. BACKHOUSE: I think so; I had not realised it was not being translated. I think everything should be translated.

THE INTERPRETER: I translated it, otherwise she could not have understood.

COL. BACKHOUSE: I put the question in English and it was translated into German.

CAPT. PHILLIPS: It has not been translated to the others.

THE JUDGE ADVOCATE: This witness is giving her version of the plan and the other accused may or may not agree with it. If they disagree it is their duty to instruct the defending officers who, in due course no doubt, will be allowed to put further questions on it, and it seems to me it must be translated both into Polish and German.

COL. BACKHOUSE: There is no reason why the Polish interpreter should not translate it. Frankly one has to be put a plain in in, I suppose, modern cases 90% of the cases in which one is engaged, and in each case the plan has to be given to the witness and the witness points out various things on the plan and those various things are followed by both counsel, each one has the plan and they follow it and they take what instructions they like. That is the way it is done in an ordinary court and that is the only way of doing it.

(The Court confer.)

THE JUDGE ADVOCATE: How much have the accused heard of this?

CAPT. PHILLIPS: They have heard nothing at all. Would it not be better -- if I might make a suggestion -- if we accepted the recommendation of the President this morning and tried to agree the plan over the week-end rather than involve ourselves in a lot of argument about it now; after all, it is five to one now.

COL. BACKHOUSE: I do not know what is meant by "agreeing the plan".

THE JUDGE ADVOCATE: Frankly I have always understood that what is usually put to a witness is a proper plan, something that has been worked out by some person who can say: "I have made this plan, it is to scale" and proceed on that. I agree you can put it this way but then later on it will cause difficulty because a defending officer will want to pick it up and say: "Well, I would like to cross-examine on this because the witness is wrong when she said this was a concrete pond". I thought we could get together and say: "We are agreed this is the bathhouse, this is the cookhouse" and so on, and if that is done we could cut out any argument.

COL. BACKHOUSE: Whether that can be done or not I really have no idea. All I want to do - and I think I am entitled to do so - is to put before the Court a plan which I want to put forward as a plan which was handed to Brigadier Glyn Hughes. That is what it says on the affidavit. I am not asking you to accept it as accurate or inaccurate or anything else. I am quite entitled to put it to any witness I like. I was suggesting that as a simple way but until the defence told me they did not agree it never occurred to me. That put me in the position of saying "Well, look at the plan, is not that so and so and so and so, and is not that so and so and so and so." You have not seen the plan yet, but I am asking the witness about various places. As far as the place is concerned it may or may not be that people who have walked round that place will immediately recognise it as a diagrammatic plan of the various places, and it may be that people who have walked round there and had various places pointed out to them by Brigadier Glyn Hughes will immediately recognise where those various places are.

The defence are not prepared to agree it, and you have ruled, and I must accept your ruling, that it cannot be done in that way which strikes me as a simple way. That being so I am forced back to my legal rights to do it in a rather roundabout way. I realise the Court have not got it; they will have to work it all out when they do see the plan.

THE JUDGE ADVOCATE: I still think the point is quite simple. I think the prosecutor is entitled to put this plan to the witness, if she says she understands plans, and then he is entitled to get from her what he can, but my point is surely that must be translated to all the accused which will inevitably result in a further request to put questions by the defending officers. I see no reason why that should not be done but I think it will take a long time. I think the best way would be, over the week-end, for you all to get together and agree.

COL. BACKHOUSE: I will agree to that if it were going to be possible to agree it, but from my experience this morning I doubt it. The defending officers all had the plan overnight and apparently they do not take the view that it is a very simple plan.

As I understand it from my friend, Major Cranfield, the defence themselves want to put it in with one of their own witnesses to tell you more about it, but before he starts I would like to get something from some of the other witnesses.

CAPT. PHILLIPS: I think what we really do want is this, and I speak merely for myself. It is a perfectly normal thing to produce a plan in a case, it is normally produced somewhat earlier than in this case but whenever it is produced, as far as my small experience goes, it is normal to have it produced by a witness who can say: "I know the ground, I know the plan, this thing here is a cookhouse and the other thing is a pond". Surely the whole of the trouble could be avoided if the plan could be produced by Brigadier Glyn Hughes who could tell us about it.

THE PRESIDENT: The best thing seems to me to be this, that over the week-end the prosecution and defence agree, so far as they can, this plan. I quite see there may be things you cannot agree but then you can cross-examine the witness on any point that is not agreed. It seems to me you are entitled to get her to say what she thinks these particular places are and if any of the accused, as represented by their defending officers, do not agree with it they can raise it in re-examination.

COL. BACKHOUSE: The only thing is the question of an agreed plan in a criminal case, the idea is new to me because I do not think the defending officers and I are entitled to agree to a plan on behalf of their accused. I quite agree with my friend, Capt. Phillips, that the normal practice would be to have a special surveyor produce the plan to the Court, but we could not do that. If you cannot do it once then falls back on what very often has to be done in a murder case of obtaining what plan is available and that plan goes before the Court for what it is worth and people start writing on the plan where things are, where the body was, and, if there is no objection to it, puts in various numbers or various letters. I still maintain that anyone could look at this plan and see perfectly well what it is and it is quite nonsense to suggest that is not so. I have not seen it before but even this girl could follow me on the main points. If the defence want to raise some minor points they can do that when the witness is in the box and they can ask her. I think the Court will appreciate I only got this plan last night. As a matter of fact Major Brown was here when I unpacked the parcel and I gave copies of it to the defending officers at once. I have not seen any more of it than they have, in fact I looked at it for the first time this morning and it is within the recollection of the Court that I have not had the slightest difficulty in following it; certainly the witness I have asked questions about it made it quite clear that everything I have put is right. I think, if the defence are really anxious for this case to finish some day, the thing will be to let the Court have a copy and then we will all know exactly what we are looking at and what the witness is talking about, but if they will not then it will take a long time.

(The Court confer.)

THE PRESIDENT: What the Court feel is what I suggested before, that on this plan (which actually I have not got and I cannot follow at all what is being said) there must be certain buildings and certain places, like, say, the entrance, that both sides, both the prosecution and defence, will agree is obviously the entrance, but if there are any buildings or any places that are not agreed, which the defence say are not what the prosecution say they are, then those can be put to the witness in the same way as they are being put now. That will enable the defending officers to re-examine that witness on behalf of their particular accused and will put before the Court their point of view. That seems to me the easiest way of doing it.

COL. BACKHOUSE: Of course, there must be some way of reaching an agreement, and the only way is to ask the witness. Supposing at the moment this girl says that B is cookhouse No. 1 and A cookhouse No. 2, that is what she has said up to now; supposing we are agreed on that, our agreement is no more than that girl said so and nobody is going to cross-examine that it is not so, but I do not think any of us will just get up and say to the Court: Well, the defending officers and prosecutor between them have agreed A is No. 1 and B is No. 2.

THE JUDGE ADVOCATE: My normal experience, Col. Backhouse, is that if a plan is not drawn up very well, and there is no surveyor available to put in the box, I merely get one and show it to my learned friend on the other side. If he indicated to me it was all right and did not think there was anything wrong with it, I would then tell the court it was not a good plan from the point of view of distances, but my learned friend does not mind me putting it in. The Judge would then say "Well, let us get it in", and when we have got it in it can be cross-examined to.

COL. BACKHOUSE: I have done that thousands of times in civil cases but not in criminal cases; how it can be done in criminal cases I do not know. All I can do is to put it to the witness and say: "Do you not agree that is a proper representation?" and the witness, if it is a fair representation, says "Yes." That is the only way I know of doing it.

THE JUDGE ADVOCATE: I am trying to save time. The usual thing is for me to ask my learned friend if he is going to object to it. If he says: "I shall not object to it at all" then it goes in and no time is wasted.

COL. BACKHOUSE: What I wanted to do was to get it put before the court, but my friends are objecting to it going in.

MAJOR CRANFIELD: There are two practical points from my point of view. First of all, we, the defending officers, have to agree among ourselves how far we agree this plan among ourselves. Having done that we can then meet the prosecutor and attempt to agree with him. These accused have conflicting interests. The second point is this, which I just throw out as a suggestion. We have a witness who we cannot call before Tuesday who has, shall I say, better qualifications and knowledge of the camp than the majority of the accused, and probably the witness in the box at the moment. It will be from that witness we shall take instructions on this plan, and it might save time, if it could be agreed between us, to hear that witness, who could deal with the question of the plan. I just put that forward as a suggestion. It may not suit the learned prosecutor, but that is just one way we could do it. When we adjourn this morning we could try to agree among ourselves as to what part of this plan we could agree with the learned prosecutor.

COL. BACKHOUSE: My whole point is this. What I am quite determined to do, quite frankly, is to see that this court shall have the benefit of this plan being put before them. This plan is already in such a position that it must be made an exhibit. Once that plan has gone in I do not mind what we do, because I am quite sure the plan will convey something to the court. After that anybody who does not like what that plan contains is quite welcome to call a witness and cross-examine on it. I do not want any more from this witness than I have got, and that is where the cookhouses are. I have got that and I propose to put it in as an exhibit. This girl has recognised various things on it and it must go in. It is a very long way round of doing it from what I wanted to do this morning. I do not want to go at great length into any other matters.

THE PRESIDENT: I think the best thing would be, as I have said, that some agreement should be reached by the prosecutor and defence as to common places over the weekend. The prosecutor is entitled to put this plan to a witness in cross-examination, and then the witness may be re-examined on it. I think it would be merely a waste of time to go on now. This plan conveys nothing to us at present because we are not following it, and if that is done we can deal with it again on Monday in the way I suggested.

COL. BACKHOUSE: That plan having been put to the witness must now go before the court as an exhibit.

CAPT. PHILLIPS: If it is going in I presume it is going in without the affidavit.

COL. BACKHOUSE: I have taken it off.

THE JUDGE ADVOCATE: The whole point which puzzles me is that normally what is put to a witness is something which has been proved to the satisfaction of the court. That is the normal procedure. I think to put any sort of piece of paper to a witness naturally produces an objection by the defence, which I think it is difficult to get over unless the witness is able to say "This document is a correct plan."

COL. BACKHOUSE: At the moment all it goes in for is something which this girl recognises, and I suggest it should go into the proper custody, which is the custody of the court.

(The court confer)

THE PRESIDENT: I do not see any necessity for taking the plan into the court now.

COL. BACKHOUSE: Then presumably it will remain with the witness.

THE JUDGE ADVOCATE: No, you keep it until you produce your affidavit.

COL. BACKHOUSE: But then what will the shorthand note show?

THE JUDGE ADVOCATE: I do not know what it will show. This has been a very long argument and it must have been very difficult to follow, I think.

COL. BACKHOUSE: I must say that there are various points on the plan which the witness has agreed are various places -- let us call it a diagram to avoid any awkward comments -- and I still maintain that it should be attached to the proceedings of the court, because otherwise this witness's evidence will be meaningless.

THE JUDGE ADVOCATE: I think we have wasted a tremendous amount of time. The time to put it in is when we have got the affidavit, or whatever it is, to prove this to be a reasonably accurate plan, the witness goes on with her evidence and then we can put the thing in.

COL. BACKHOUSE: I offered that affidavit this morning and the court ruled I could not do it unless it was agreed by the defence, which the defence did not agree, and therefore I have got to put it in some other way.

THE JUDGE ADVOCATE: I understood the plan was going to be put in as an exhibit for the prosecution in chief, but now it is being put in in cross-examination. The prosecutor is quite entitled to do so, but it is quite different from what we heard before. At any rate, I think we had better decide what we are going to do.

(The court confer)

THE PRESIDENT: If you wish the plan held it can be held by the court.

COL. BACKHOUSE: I do wish it to be held by the court.

(The Plan is handed in to the court)

CAPT. PHILLIPS: I have an application to make before the court adjourns. My accused is still in the box and I cannot go and talk to her. I would like permission through my interpreter to explain to her what is happening, otherwise she will be rather confused.

THE PRESIDENT: (To the witness) None of this discussion has concerned you.
The whole of the discussion has been about a legal point connected with
the plan.

(The accused Charlotte Klein leaves the place from which she
has given her evidence)

(At 1320 hours the court adjourns until 0930 hours on Monday
29th October 1945)